

**BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

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**Minutes****Board Meeting**

Thursday, June 3 and Friday, June 4, 1999

Board for Professional Engineers and Land Surveyors

Meeting Held at:

ONTARIO MARRIOTT HOTEL

200 E Holt Blvd.

Ontario, California

Thursday, June 3, 1999**1. ROLL CALL TO ESTABLISH QUORUM**

The meeting was called to order by President Powell at 1:15 p.m. Roll call was taken, and a quorum was present.

Board Members Present: Myrna Powell (President), George Shambeck (Vice-President), Gregg Brandow, David Chen, Jim Foley, Andrew Hopwood, Marilyn Lyon, Quang Vu

Board Members Absent: Vince DiTomaso, Ted Fairfield, Kathy Hoffman, Steve Lazarian, Millicent Safran

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Legal Counsel), Kevin A. Schunke (Special Assistant to the Executive Officer), Nancy Eissler (Attorney General Liaison Analyst), Jacqueline Barclay (Executive Analyst), Donna Vaum (Enforcement Analyst)

Public Present: See Attached

2. PUBLIC COMMENT

President Powell asked for public comment. There was no public comment.

3. CLOSED SESSION

The Board went into Closed Session.

4. OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

The Board approved the recommendation of the Enforcement Committee to adopt the proposed stipulation in the matter of Fred Kollerbohm.

The Board approved the licensure of the candidates who had previously passed the 8-hour section of the examinations. Licensure for the candidates was not authorized prior to this date because they had not returned their take-home examinations. Candidates were notified of the deficiency and have since returned and passed their take-home examinations.

The Board approved licensure of individuals who were successful in appealing the October 1998 NCEES Professional, Geotechnical, and Structural Engineering examinations, and have met all other requirements.

The Board approved the successful appeals of the October 1998 NCEES Professional Engineering examinations, but who did not meet all requirements for licensure.

The Board approved for licensure the examinees who passed the Seismic Principles and Engineering Surveying examination after a review of Question 617 of the NCEES Civil examination, in which options A, C, and D, in addition to the original answer of Option B, were given credit.

The Board denied the appeals of the October 1998 NCEES Professional, Geotechnical, and Structural Engineering examinations who did not meet all requirements for licensure, as their scores after appeal did not meet or exceed the passing score as established by the Board.

The Board discussed pending litigation as noticed.

5. APPROVAL OF CONSENT ITEMS (POSSIBLE ACTION)

MOTION: Mr. Hopwood/Ms. Lyon moved to approve all consent items, with the exception of all five-year/three year reinstatements.

VOTE: 8-0, Motion carried.

6. COMITY AND TEMPORARY AUTHORIZATION APPLICATIONS

MOTION: Mr. Vu/Mr. Hopwood moved to approve the applicants for licensure by Comity as provided on Pages 19-28 of the agenda.

VOTE: 8-0, Motion carried.

7. BOARD POLICY RESOLUTIONS

OAL DETERMINATION – Gary Duke presented the information to the Board. He stated that the Office of Administrative Law (OAL) received a request for determination concerning Board Policy Resolution (BPR) #96-10, Fields of Expertise for Geologists and Civil Engineers. On May 13, 1999, the OAL found in its determination that this Policy Resolution constituted a “regulation” which is invalid, because it should have been, but was not, adopted pursuant to the Administrative Procedure Act (APA). As a result of this determination, Mr. Duke recommended that the Board rescind this BPR.

Mr. Foley stated that the BPR was complex and it seemed to extend the definition of Civil Engineering. It could be construed to overstep the definition. Because the Geology Board did not adopt the BPR, it really was not an issue.

MOTION: Mr. Shambeck moved to table the discussion of acting on BPR #96-10.

VOTE: This motion died for lack of a second.

Mr. Duke stated that the Board has to take some type of action in response to the OAL determination.

MOTION: Mr. Hopwood/Mr Shambeck moved to rescind BPR #96/10.

VOTE: Motion carried, 7-1. Vice-President Shambeck voted Nay.

Cindi Christenson requested that discussion by the Board regarding Susan Ruff's Opinion should be held over until June 4, 1999, so that Steve Lazarian may provide input.

Further discussion on the item was postponed until June 4, 1999.

8. TECHNICAL ADVISORY COMMITTEE REPORTS (TAC)

a. Land Surveying (LS)

Mr. Shambeck reported on the April 16, 1999 Committee Meeting.

1. **Status of the AD Hoc Committee preparing a Board Information Brochure regarding Geographic Information Systems (GIS) and Land Information Systems (LIS).** Mr. Shambeck reported on the Status of the AD Hoc Committee preparing a Board Information Brochure regarding GIS and LIS systems. The LS TAC is developing a brochure to provide advice to the public/consumer on what they should expect when the services of a GIS Map are used. President Powell ask staff counsel, Gary Duke, if there were any problems with the Board writing this type of brochure. Gary Duke stated that the LS TAC must be aware that the brochure cannot further define or make a determination of law with respect to

GIS systems. This item will be discussed at future LS TAC Meetings. Gregg Brandow recommended that the GIS brochure be incorporated with the Board's "Consumer Guide." President Powell recommended that a separate brochure be written.

2. **Applicant Qualifications required for the Professional Land Surveyor Examination.** Mr. Shambeck reported that the LS TAC is still working on defining Broad Based Experience. The Committee will discuss this item at future LS TAC Meetings. Mr. Shambeck reported that the LS TAC is currently working with CE TAC to get input from them on this definition. Howard Brunner will be attending a future CE TAC meeting to further discuss this issue.

3. **Board Rule 464 Corner Record Form (BORPELS 12/97).** Mr. Shambeck reported on the decision of the LS TAC to have the "corner record" form added to Board Rule section 464 in graphic format through the formal substantive change rulemaking process.

b. Civil/Geotechnical Engineering
Mr. Foley reported on the May 19, 1999, Committee Meeting

1. **Fields of Expertise Document Prepared in Conjunction with the Geology Board.** Mr. Foley deferred this item after its earlier discussion - Agenda Item # 7.

2. **Plan Checking and Plan Review.** Mr. Foley reported that this item is tabled pending material from CALBO (California Building Officials).

3. **Building Department Requirements for Testing on Site.** Mr. Foley reported that this item was tabled pending final reports on the project.

4. **Soil Remediation.** Mr. Foley reported that this item was tabled indefinitely.

5. **Change in Land Surveyors Act by Senate Bill 2239 Requiring "Broad Based Experience in Land Surveying.** Mr. Foley reported that the CE TAC does not understand all the requirements. Howard Brunner will prepare a memo to the CE/GE TAC that details the types and length of expertise required for both civil engineering applicants and non-civil engineering applicants for Land Surveying licenses. This should give the CE TAC a better understanding of the new law.

6. **Design-Build.** Mr. Foley reported that a motion was made and seconded that Board staff would prepare a memorandum in plain language recommending amendments to the Professional Engineers Act, section 6738, to allow entities to offer engineering design and construction observation services,

provided that that all engineering work is performed under the responsible charge of a professional engineer.

7. **Waste Disposal for Dairy Sites.** Mr. Foley reported on the discussion of Waste Disposal for Dairy Sites. President Powell reminded Mr. Foley that any comments made from CE/GE TAC members with respect to defining civil engineering and Waste Disposal for Dairy Sites must first come through the Board for possible action/recommendation prior to submitting to the Regional Water Quality Control Board (RWQCB). Mr. Foley agreed that the item would be brought back through the Board prior to release to the RWQCB.

8. **Definition of “Structural Observation” by SE TAC.** Mr. Foley reported that the CE TAC recommends this definition be written in two separate sentences.

d. Mechanical Engineering
Mr. Vu reported on the May 18, 1999 Committee Meeting

1. **Discussion of the Board’s Statutes and Regulation Pertaining to Mechanical Engineering to Enhance Consumer Protection.** Mr. Vu requested that the Board allow the ME TAC to proceed with Phase III through Phase IV regarding Board’s Statutes and Regulations pertaining to Mechanical Engineering to Enhance Consumer Protection.

Mr. Vu requested that this item be placed on the July 1999 Board Meeting agenda for discussion and possible action by the Board.

2. **Discussion, Selection, and Recommendation of New ME TAC Members to the Board.** Mr. Vu reported that the TAC gathered names of persons that would like to serve on the TAC. Filling positions on the TAC is ongoing.

3. **Develop Technical Article Regarding Seismic Concerns for Mechanical Engineering.** Mr. Vu reported that there was no action on this item.

4. **Mechanical Engineering and Board Update.** Mr. Vu reported that the TAC reviewed the “construction observation” language from the SE TAC. The ME TAC offers a change to the language which would include...”and systems” to the definition. The ME TAC’s recommended addition to this definition has been provided to the SE TAC for review.

9. LIAISON REPORTS

a. ABET

Mr. Tom Stout from ABET reported on items of interest to the Board. The following items were discussed at the March 20, 1999 ABET Board meeting.

- Dual-Level Accreditation – Allowing universities and colleges accreditation for both B.A. and M.S. programs. Currently a university or college will have one or the other, but not both programs accredited. Dual-Level accreditation would allow for both.
- Distant Learning Internet Degrees – This does not affect undergraduate degrees, but Mr. Stout had learned of a master's program in Control Systems engineering that may be set up by Oklahoma State University.
- E.C. 2000, Engineering Criteria.
- Merger of ABET with the Computer Science Accreditation Board (CSAB). Initially, ABET helped establish CSAB and it follows ABET procedures. CSAB has accredited 156 programs and 150 institutions.
- Software Engineering – ABET has adopted a proposed program criteria for "software engineering." The state of Texas recognizes the title and accepts applications under their "no-exam" process as long as the applicants meet the requirements

b. NCEES - Western Zone Meeting.

Mr. Shambeck reported that the Western Zone Meeting was very successful. Mr. Hopwood congratulated Mr. Shambeck and Kevin Schunke who worked on organizing the meeting. Mr. Brandow stated that he enjoyed meeting engineers from other states and discussing structural engineering.

President Powell thanked Mr. Shambeck, Kevin Schunke, and all who attended the NCEES Western Zone Meeting.

c. International Relations – no report

d. Technical and Professional Societies – no report

10. President's Report

President Powell announced that Ms. Safran had been re-appointed by the Senate Rules Committee.

- Opportunities

President Powell reported that at the beginning of the year she talked about opportunities and challenges before the Board for 1998/1999. The opportunities were to enhance the Board's Outreach Program. Mariann Fagunes' Enforcement and Kevin Schunke's College Outreach programs are going strong. Many of the Board members have had the opportunity to speak to professional groups. For the most part, this has been a positive experience. The main thing is the professional societies know the Board is here and they know our mandate is to protect the public while still encouraging professional assistance for engineers and land surveyors. As

part of our outreach, we now have an informational brochure for governmental agencies and our website has information for consumers, applicants, and licensees.

President Powell reported that our three new Board Members are an integral part of our Board. They have taken on many new responsibilities.

President Powell reported that the Board's Western Zone meeting was a huge success and everyone involved should be very proud. President Powell thanked all who contributed.

President Powell requested more participation with respect to ABET evaluations. Maybe next year with more planning everyone can attend at least once.

- **Challenges**

Sunrise/Sunset is still before us. She believes we are doing our homework and that we will be prepared when the time comes. SB 191 is also still before us.

Examinations have weathered the transition to a new vendor. They have given us new ideas with which to work.

We are making progress in our dealings with licensee delinquency.

- **General**

It has been a very good year, each day bringing new challenges. Cindi Christenson and President Powell developed a rapport that allowed avoidance of hasty decisions. President Powell thanked all Board Members and staff for their support. Cindi Christenson has become an excellent Executive Officer.

President Powell congratulated Cindi Christenson for moving ahead on pursuing her law degree.

11. Executive Officer's Report

1. Fiscal Report

a. Executive Summary Report

Cindi Christenson reported that the only point of interest was that the examination application numbers for Civil engineering and Engineer-in-training are up 10 to 15 percent.

2. Personnel

a. New Hires and Vacancies

The Board has hired an Office Technician who will be responsible for processing the new application fees. The Board hired an Office Technician who is responsible for the EIT/LSIT evaluation desk. The Board also hired an Information Systems Analyst. The Board also hired an Office Assistant

who is responsible for processing incoming/outgoing mail. The Board is still accepting applications for the Office Services Supervisor II position.

3. Enforcement/Examination/Licensing

- a. Cindi Christenson reported that the Enforcement Unit is fully staffed.

The Examination unit is currently working on the exam development for the October 1999 examinations. PMES will be handling the Structural examination.

- b. License 2000

The Department of Consumer Affairs is currently looking into a system that would replace our current Applicant Tracking System (ATS) and TEALE/CAS licensing system. This system, known as License 2000, would be used from the point a person applies and would track them through the examination and licensing process. Staff attended a brief overview of this "off-the-shelf" software system in May. Board staff expressed it's concern that this system, as it stands, would not meet the needs of our examination processes.

The Department's task is to establish one database system that would meet the requirements and processes of each Bureau and Board under the Department. Board staff is skeptical that this vendor could meet our requirements, and we have provided our evaluation of the system to the Department.

4. Publications/Website

- a. Update

Ms. Christenson reported that the Spring Bulletin is completed and will be mailed to the Board Members on Friday, June 4, 1999.

- b. Website

Ms. Christenson reported that the Board Website is continually being updated. The Board's Short Agenda will now be available on our Website.

- c. WEB Look-Up Project

Ms. Christenson reported that on June 2, 1999 she signed off on the WEB Licensee Look-up Project for our Board. Ms. Eissler reported that the system might be up-and-running on June 3, 1999.

5. Other

- a. DCA Update

Ms. Christenson announced that Lynn Morris is the Acting Deputy Chief of the Department's Legislative Unit. Denise Brown is the Acting Deputy Director for the Department.

Ms. Christenson attended, on May 27, 1999, a Bay Area Engineer's Council Dinner. Ted Fairfield also attended the dinner and sat as a panel member for discussion on the PE Act.

Ms. Christenson thanked President Powell for her support during the past year.

The meeting was recessed at 3:15 to be reconvened on June 4, 1999, after the Hearing on the matter of the Petition for Reinstatement of Revoked License of Edwin Terry Holbert OAH File No. L-1999040503.

Friday, June 4, 1999

1. ROLL CALL TO ESTABLISH QUORUM

The meeting was called to order by President Powell at 11:20 a.m. Roll call was taken, and a quorum was present.

Board Members Present: Myrna Powell (President), George Shambeck (Vice-President), Gregg Brandow, David Chen, Jim Foley, Andrew Hopwood, Marilyn Lyon

Board Members Absent: Vince DiTomaso, Ted Fairfield, Kathy Hoffman, Steve Lazarian, Millicent Saffran, Quang Vu

Board Staff Present: Cindi Christenson (Executive Officer), Susan Ruff (Legal Counsel), Kevin A. Schunke (Special Assistant to the Executive Officer), Nancy Eissler (Attorney General Liaison Analyst), Jacqueline Barclay (Executive Analyst), Donna Vaum (Enforcement Analyst),

Public Present: See attached

1. PUBLIC COMMENT

President Powell asked for public comment. There was no public comment

7. Board Policy Resolutions (Possible Action)

- Legal Opinion by Susan Ruff

MOTION: Ms. Lyon/Mr. Hopwood moved to continue the Board Policy Resolution – Legal Opinion item to the July 23, 1999 Board Meeting.

VOTE: 7-0, Motion carried.

12. COMMITTEE REPORTS

a. Legislative

1. Report on the June 3, 1999, Committee Meeting

Mr. Hopwood reported on the June 3, 1999, Committee Meeting.

2. Legislation for 1999/2000 Legislative Session, including but not limited to: AB 86 (McClintock), AB 751 (Gallegos), AB 1096 (Romero), AB 1234 (Shelley), AB 1312 (Machado), AB 1341 (Granlund), SB 29 (Peace), SB 191 (Knight), SB 1216 (Hughes), SB 1306 (Sen. Comm. on Bus. and Prof.), and other (Possible Action)

MOTION: Mr. Hopwood/Dr. Chen moved to take the following positions on the following bills:

AB 86	Opposed unless Amended
AB 688	Opposed
AB 751	Watch
AB 1342	Support
SB 1306	Support

VOTE: Motion carried, 7-0

MOTION: Mr. Shambeck/Mr. Foley moved to take the following position on the following bill:

SB 1341	Neutral
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VOTE: Motion carried, 7-0

b. Enforcement Committee

1. Report on the June 3, 1999, Committee Meeting

President Powell reported on the June 3, 1999, Committee Meeting.

2. Approval of Process to Adopt regulations as required by Business and Professions Code section 138 regarding Posting Notice of Licensure (Possible Action)

MOTION: Mr. Shambeck/Mr. Hopwood moved to adopt the language for 463.5, Posting Notice of Licensure, Title 16, California Code of Regulations with the addition of the underlined language:

(a) *Displaying his or her wall certificate in a public area, office, or individual work area of the premises where the licensee provides the licensed service.*

VOTE: **Motion carried, 7-0**

d. **Examination/Qualification**

President Powell reported that the Board postponed the Examinations/Qualifications Committee meeting on July 3, 1999 until the July 23, 1999 Committee Meeting, due to lack of a quorum.

c. **Administrative**

Ms. Lyon reported on the June 3, 1999 Committee meeting. No action was taken.

13. APPROVAL OF BOARD TRAVEL

MOTION: Mr. Hopwood/Ms. Lyon moved to approve Mr. Shambeck's travel to Clemson, South Carolina for a URISI/GIS related meeting.

VOTE: 7-0, Motion carried.

14. OTHER ITEMS NOT REQUIRING BOARD ACTION

President Powell again thanked the Board members and advised that she will pass the gavel to Vice-President George Shambeck at the July 23, 1999 Board meeting.

The next Board Meeting will be held on July 22 & 23, 1999, at the Doubletree San Francisco Airport. There were no other items not requiring Board action.

15. ADJOURN

The meeting adjourned at 12:15 p.m.

Attachment A – Public Attendees

Tom Stout	ABET
Joyce Hirano	CalTrans
Allen Greenway	CPIL
Rich Ray	CLSA
Richard Markuson	CELSOC